

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

UNITED STATES OF AMERICA    )  
  )  
v.                                    )     NO. 1:08CR239 (GBL)  
  )  
ELAINE ROBERTSON CIONI        )

MOTION TO DISMISS COUNTS 2 THROUGH 4 OF THE INDICTMENT

COMES NOW, Elaine Robertson Cioni, by counsel, and moves this Court, pursuant to Federal Rule of Criminal Procedure 12(b)(3)(B), to Dismiss Counts 2 through 4 of the Indictment on grounds that they fail to state an offense, in that: (1) Ms. Cioni's intention to commit the tort of intentional infliction of emotional distress cannot be proven in this case as a matter of law; and (2) Ms. Cioni could not have acted in furtherance of the tort of invasion of privacy which does not exist in Virginia law. In the alternative, the sentencing aggravators should be stricken from Counts 2-4 of the Indictment.

Respectfully submitted,

ELAINE ROBERTSON CIONI  
By Counsel

\_\_\_\_\_/s/  
Nina J. Ginsberg, Esquire  
VSB # 19472  
*Counsel for Elaine Robertson Cioni*  
DiMuroGinsberg, P.C.  
908 King Street, Suite 200  
Alexandria, VA 22314  
Phone: 703-684-4333  
Fax: 703-548-3181  
[nginsberg@dimuro.com](mailto:nginsberg@dimuro.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on August 29, 2008, I will electronically file the foregoing pleading with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to:

Jay Prabhu, Esquire  
Assistant U.S. Attorney  
2100 Jamieson Avenue  
Alexandria, VA 22314  
703-299-3700  
[jay.prabhu@usdoj.gov](mailto:jay.prabhu@usdoj.gov)

\_\_\_\_\_/s/  
Nina J. Ginsberg, Esquire  
VSB # 19472  
*Counsel for Elaine Robertson Cioni*  
DiMuroGinsberg, P.C.  
908 King Street, Suite 200  
Alexandria, VA 22314  
Phone: 703-684-4333  
Fax: 703-548-3181  
[nginsberg@dimuro.com](mailto:nginsberg@dimuro.com)